

Internal Revenue Service
Room 160, Quality Review Staff
P. O. Box 1055
Atlanta, Georgia 30370

Department of the Treasury

FEB 25 1986

Employer Identification
Number: [REDACTED]
Person to Contact:
[REDACTED]
Contact Telephone Number:
[REDACTED]
File Folder Number:
[REDACTED]

Certified Mail Return Receipt Requested

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code. For the reasons stated below, we have concluded that you do not qualify for tax exemption under this section. Your protest rights are also explained below.

You were incorporated on a nonprofit basis under the laws of the State of [REDACTED] on [REDACTED]. Your purpose, as stated in your articles of incorporation is "... to promote [REDACTED], including covenants and restrictions pertaining thereto, and to otherwise attempt to preserve and enhance property values in that subdivision." Membership in your organization is restricted to property or homeowners in [REDACTED].

In your exemption application, and documents and correspondence submitted during the application process, you indicate that your activities have included or will include putting up a sign at the subdivision entrance, sponsoring a "community watch" program, purchasing street lights, shrubbery and trees to be planted along subdivision streets, and contacting individual homeowners concerning violations of restrictive covenants; you may take legal action against individual homeowners in the last matter.

[REDACTED] is a subdivision adjacent to other developed areas, consisting of [REDACTED] lots, of which [REDACTED] were occupied by homes when you submitted your application. The major portion of the subdivision can only be entered through roads which end in cul-de-sacs within the subdivision.

You receive income from membership dues. Funds are used primarily to purchase landscape materials, street lights, and signs, and may also be used for legal fees. In the event of dissolution of your organization, you state that any residual assets would be divided equally among your members.

Section 501(c)(4) of the Internal Revenue Code holds that civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare are exempt from tax.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations holds that an organization is a "social welfare" organization if it promotes the common good and general welfare of the people of a community.

Revenue Ruling 74-99, 1974-1 C.B. 131, which clarifies Revenue Ruling 72-102, provides that for a homeowners association to qualify for exemption under Code section 501(c)(4), it must, among other criteria; (1) serve a community bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or unit thereof, and (2) make common areas and facilities available for the use and enjoyment of the general public (persons other than members and their guests).

Revenue Ruling 80-63, 1980-1 C.B. 115, restates the conclusions of Revenue Ruling 74-99, and further indicates that a homeowner's association that represents an area that is not a community may not qualify for exemption where the benefits provided by the organization's activities are restricted to members.

Based on the information provided during your application, we conclude that the development represented by your organization is not a "community" within the meaning of section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations, in that [REDACTED] does not bear a reasonably recognizable relationship to a governmental subdivision or unit thereof. Further, we conclude that your activities do not serve to provide any significant benefit to the residents of the larger community of [REDACTED]. While access to your subdivision is not physically barred to non residents, the fact that most roads do not lead through the subdivision to any other areas or public thoroughfares, and the fact that the subdivision does not contain any public parklands, recreational facilities, or similar inducements for public use of the streets, are evidence that public benefit provided by your organization is insubstantial compared with the private benefit accorded to your members.

Accordingly, based on all the facts and circumstances, we conclude that you do not qualify for recognition of exemption from Federal income tax under section 501(c)(4) of the Code or any other subsection thereof. You are therefore, required to file federal income tax returns, Forms 1120.

If you do not agree with our proposed denial we recommend that you request a conference with a member of the Regional Director of Appeals Staff. Your request for a conference should include a written appeal signed by an authorized officer giving the facts, law and any other pertinent information to support your position as explained in the enclosed Publication 892. If you are to be represented by someone who is not one of your authorized officers, he/she will need to file a power of attorney or tax information authorization and be qualified to practice before the Internal Revenue Service as provided in Treasury Department Circular No. 230. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office.

If we do not hear from you within 30 days, this letter will become our final determination.

Sincerely,


District Director

Enclosures:
Publication 892